



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1408

Introduced 2/11/2009, by Sen. Michael Noland

SYNOPSIS AS INTRODUCED:

430 ILCS 85/2-10	from Ch. 111 1/2, par. 4060
430 ILCS 85/2-15	from Ch. 111 1/2, par. 4065
430 ILCS 85/2-16	from Ch. 111 1/2, par. 4066
430 ILCS 85/2-19	from Ch. 111 1/2, par. 4069
430 ILCS 85/2-20	

Amends the Carnival and Amusement Rides Safety Act. Makes various changes regarding: applying for a permit to operate an amusement ride or amusement attraction at a carnival or fair; penalties for violation of the Act; notices and fact-finding conferences; procedures relating to criminal history records checks and checks of the National Sex Offender Public Registry; exemption of an amusement ride or amusement attraction that is subject to inspection by a political division of the State from the provisions of the Act; and exemption of carnival workers who are foreign nationals and have been granted visas by the United States Citizenship and Immigration Services in conjunction with the United States Department of Labor's H-2B or J-1 programs and are lawfully admitted into the United States from the background check requirement. Makes other changes. Effective immediately.

LRB096 08842 KTG 18976 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Carnival and Amusement Rides Safety Act is
5 amended by changing Sections 2-10, 2-15, 2-16, 2-19, and 2-20
6 as follows:

7 (430 ILCS 85/2-10) (from Ch. 111 1/2, par. 4060)

8 Sec. 2-10. No amusement ride or amusement attraction shall
9 be operated at a carnival or fair in this State without a
10 permit having been issued by the Director to an operator of
11 such equipment. At least 30 days prior to the first day of
12 operation or the expiration of the permit, ~~On or before the~~
13 ~~first of May of each year,~~ any person required to obtain a
14 permit by this Act shall apply to the Director for a permit on
15 a form furnished by the Director which form shall contain such
16 information as the Director may require. The Director may waive
17 the requirement that an application for a permit must be filed
18 at least 30 days prior to the first day of operation or the
19 expiration of the permit ~~on or before May 1 of each year~~ if the
20 applicant gives satisfactory proof to the Director that he
21 could not reasonably comply with the date requirement and if
22 the applicant immediately applies for a permit after the need
23 for a permit is first determined. For the purpose of

1 determining if an amusement ride or amusement attraction is in
2 safe operating condition and will provide protection to the
3 public using such amusement ride or amusement attraction, each
4 amusement ride or amusement attraction shall be inspected by
5 the Director before it is initially placed in operation in this
6 State, and shall thereafter be inspected at least once each
7 year.

8 If, after inspection, an amusement ride or amusement
9 attraction is found to comply with the rules adopted under this
10 Act, the Director shall issue a permit for the operation of the
11 amusement ride or amusement attraction. The permit shall be
12 issued conditioned upon the payment of the permit fee and any
13 applicable inspection fee at the time the application for
14 permit to operate is filed with the Department and may be
15 suspended as provided in the Department's rules.

16 If, after inspection, additions or alterations are
17 contemplated which change a structure, mechanism,
18 classification or capacity, the operator shall notify the
19 Director of his intentions in writing and provide any plans or
20 diagrams requested by the Director.

21 (Source: P.A. 92-26, eff. 1-1-02.)

22 (430 ILCS 85/2-15) (from Ch. 111 1/2, par. 4065)

23 Sec. 2-15. Penalties.

24 (a) Criminal penalties.

25 1. Any person who operates an amusement ride or

1 amusement attraction at a carnival or fair without having
2 obtained a permit from the Director or who violates any
3 order or rule issued by the Director under this Act is
4 guilty of a Class A misdemeanor. Each day shall constitute
5 a separate and distinct offense.

6 2. Any person who interferes with, impedes, or
7 obstructs in any manner the Director or any authorized
8 representative of the Department in the performance of
9 their duties under this Act is guilty of a Class A
10 misdemeanor.

11 (b) Civil penalties. Unless otherwise provided in this Act,
12 any person who operates an amusement ride or amusement
13 attraction without having obtained a permit from the Department
14 in violation of this Act is subject to a civil penalty not to
15 exceed \$2,500 per violation for a first violation and not to
16 exceed \$5,000 for a second or subsequent violation.

17 Prior to any determination, or the imposition of any civil
18 penalty, under this subsection (b), the Department shall notify
19 the operator in writing of the alleged violation. The
20 Department shall afford the operator 15 days from the date of
21 the notice to present any written information that the operator
22 wishes the Department to consider in connection with its
23 determination in the matter. Upon written request of the
24 operator, the Department shall convene an informal
25 fact-finding conference, provided such request is received by
26 the Department within 15 days of the date of the notice of the

1 alleged violation. In determining the amount of a penalty, the
2 Director may consider the appropriateness of the penalty to the
3 person or entity charged, upon determination of the gravity of
4 the violation. Penalties may be recovered in a civil action
5 brought by the Director of Labor in any circuit court. In this
6 litigation, the Director of Labor shall be represented by the
7 Attorney General.

8 (Source: P.A. 94-801, eff. 5-25-06.)

9 (430 ILCS 85/2-16) (from Ch. 111 1/2, par. 4066)

10 Sec. 2-16. Exemptions. The following amusement rides or
11 amusement attractions are exempt from the provisions of this
12 Act:

13 Any amusement ride or amusement attraction which is owned
14 or operated by a non-profit religious, educational or
15 charitable institution or association if such amusement ride or
16 amusement attraction is located within a building subject to
17 inspection by the state fire marshal or by any political
18 subdivisions of the State under its building, fire, electrical,
19 and related public safety ordinances, and the amusement ride or
20 amusement attraction itself is subject to inspection by a
21 political subdivision of the State in accordance with Section
22 2-17.

23 (Source: P.A. 83-1240.)

24 (430 ILCS 85/2-19) (from Ch. 111 1/2, par. 4069)

1 Sec. 2-19. The owner or operator of an amusement ride or
2 amusement attraction may remove from or deny entry to a person
3 to an amusement ride or amusement attraction if, in the owner's
4 or operator's opinion, the entry or conduct may jeopardize the
5 safety of such person or the safety of any other person.
6 Nothing in this Section will permit an owner or operator to
7 deny an inspector access to an amusement ride or amusement
8 attraction when such inspector is acting within the scope of
9 his duties under this Act.

10 (Source: P.A. 83-1240.)

11 (430 ILCS 85/2-20)

12 Sec. 2-20. Employment of carnival workers.

13 (a) Beginning on January 1, 2008, no person, firm,
14 corporation, or other entity that owns or operates a carnival
15 or fair shall employ a carnival worker who (i) has been
16 convicted of any offense set forth in Article 11 of the
17 Criminal Code of 1961, (ii) is a registered sex offender, as
18 defined in the Sex Offender Registration Act, or (iii) has ever
19 been convicted of any offense set forth in Article 9 of the
20 Criminal Code of 1961.

21 (b) A person, firm, corporation, or other entity that owns
22 or operates a carnival or fair must conduct a criminal history
23 records check and perform a check of the National Sex Offender
24 Public Registry for carnival workers at the time they are
25 hired, and annually thereafter except if they are in the

1 ~~continued employ of the entity consistent with the Illinois~~
2 ~~Uniform Conviction Information Act and perform a check of the~~
3 ~~Sex Offender Registry.~~

4 The criminal history records check performed under this
5 subsection (b) shall be performed by the Illinois State Police,
6 another State or federal law enforcement agency, or a business
7 belonging to the National Association of Professional
8 Background Check Screeners.

9 Carnival workers who are foreign nationals and have been
10 granted visas by the United States Citizenship and Immigration
11 Services in conjunction with the United States Department of
12 Labor's H-2B or J-1 programs and are lawfully admitted into the
13 United States shall be exempt from the background check
14 requirement imposed under this subsection. ~~In the case of~~
15 ~~carnival workers who are hired on a temporary basis to work at~~
16 ~~a specific event, the carnival or fair owner may work with~~
17 ~~local enforcement agencies in order expedite the criminal~~
18 ~~history records check required under this subsection (b).~~

19 Individuals who are under the age of 17 are exempt from the
20 criminal history records check requirements set forth in this
21 subsection (b).

22 (c) Any person, firm, corporation, or other entity that
23 owns or operates a carnival or fair must have a substance abuse
24 policy in place for its workers, which shall include random
25 drug testing of carnival workers.

26 (d) Any person, firm, corporation, or other entity that

1 owns or operates a carnival or fair that violates the
2 provisions of subsection (a) of this Section or fails to
3 conduct a criminal history records check or a sex offender
4 registry check for carnival workers in its employ, as required
5 by subsection (b) of this Section, shall be assessed a civil
6 penalty in an amount not to exceed \$1,000 for a first offense,
7 not to exceed \$5,000 for a second offense, and not to exceed
8 \$15,000 for a third or subsequent offense. The collection of
9 these penalties shall be enforced in a civil action brought by
10 the Attorney General on behalf of the Department.

11 (e) A carnival or fair owner is not responsible for:

12 (1) any personal information submitted by a carnival
13 worker for criminal history records check purposes; or

14 (2) any information provided by a third party for a
15 criminal history records check or a sex offender registry
16 check.

17 (f) Recordkeeping requirements. Any person, firm,
18 corporation, or other entity that owns or operates a carnival
19 or fair subject to the provisions of this Act shall make,
20 preserve, and make available to the Department, upon its
21 request, all records that are required by this Act, including
22 but not limited to a written substance abuse policy, evidence
23 of the required criminal history records check and sex offender
24 registry check, and any other information the Director may deem
25 necessary and appropriate for enforcement of this Act.

26 (g) A carnival or fair owner shall not be liable to any

1 employee in carrying out the requirements of this Section.

2 (Source: P.A. 95-397, eff. 8-24-07; 95-687, eff. 10-23-07.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.